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FILED

Date 8/8/16 By

Susan Saylor

8
9 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2017-11

13 **GIEZI M. BELTRAN**
14 **72-395 Varner Road**
Thousand Palms, CA 92276

A C C U S A T I O N

15 **Applicator License No. RA 51927**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as
21 the Registrar/Executive Officer of the Structural Pest Control Board (Board), Department of
22 Consumer Affairs.

23 2. On or about April 11, 2011, the Board issued Applicator License Number RA 51927
24 in Branches 2 and 3 to Giezi M. Beltran (Respondent). The Applicator License was in full force
25 and effect at all times relevant to the charges brought herein and will expire on June 30, 2017,
26 unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 8620 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

5. Section 8625 of the Code states:

The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the

1 licensee in question, the record of conviction of the crime shall be conclusive
2 evidence of the fact that the conviction occurred, but only of that fact, and the board
3 may inquire into the circumstances surrounding the commission of the crime in order
4 to fix the degree of discipline or to determine if the conviction is substantially related
5 to the qualifications, functions, and duties of the licensee in question.

6 As used in this section, "license" includes "certificate," "permit," "authority,"
7 and "registration."

8 9. Section 8649 of the Code states:

9 Conviction of a crime substantially related to the qualifications, functions, and
10 duties of a structural pest control operator, field representative, applicator, or
11 registered company is a ground for disciplinary action. The certified record of
12 conviction shall be conclusive evidence thereof.

13 10. Section 8654 of the Code states:

14 Any individual who has been denied a license for any of the reasons specified
15 in Section 8568, or who has had his or her license revoked, or whose license is under
16 suspension, or who has failed to renew his or her license while it was under
17 suspension, or who has been a member, officer, director, associate, qualifying
18 manager, or responsible managing employee of any partnership, corporation, firm, or
19 association whose application for a company registration has been denied for any of
20 the reasons specified in Section 8568, or whose company registration has been
21 revoked as a result of disciplinary action, or whose company registration is under
22 suspension, and while acting as such member, officer, director, associate, qualifying
23 manager, or responsible managing employee had knowledge of or participated in any
24 of the prohibited acts for which the license or registration was denied, suspended or
25 revoked, shall be prohibited from serving as an officer, director, associate, partner,
26 qualifying manager, or responsible managing employee of a registered company, and
27 the employment, election or association of such person by a registered company is a
28 ground for disciplinary action.

11. Section 8655 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere
made to a charge substantially related to the qualifications, functions, and duties of a
structural pest control operator, field representative, applicator, or registered company
is deemed to be a conviction within the meaning of this article or Section 8568 of this
chapter. The board may order the license or registration suspended or revoked, or
may decline to issue a license, when the time for appeal has elapsed, or the judgment
of conviction has been affirmed on appeal or when an order granting probation is
made suspending the imposition of sentence, irrespective of a subsequent order under
the provisions of Section 1203.4 of the Penal Code allowing the individual or
registered company to withdraw a plea of guilty and to enter a plea of not guilty, or
setting aside the verdict of guilty, or dismissing the accusation, information or
indictment.

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REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1937.1 states:

For the purposes of denial, suspension or revocation of a license or company registration pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensee or registered company under Chapter 14 of Division 3 of the code if to a substantial degree it evidences present or potential unfitness of such licensee or registered company to perform the functions authorized by the license or company registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, the following:

(a) Any violation of the provisions of Chapter 14 of Division 3 of the code.

(b) Commission of any of the following in connection with the practice of structural pest control:

(1) Fiscal dishonesty

(2) Fraud

(3) Theft

(4) Violations relating to the misuse of pesticides.

13. California Code of Regulations, title 16, section 1937.2 states:

...

(b) When considering the suspension or revocation of a structural pest control license or company registration on the grounds that the licensee or registered company has been convicted of a crime, the board, in evaluating the rehabilitation of such person or company and his or her or its present eligibility for a license or company registration will consider the following:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee or registered company has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee or registered company.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any of rehabilitation submitted by the licensee or registered company. . . .

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1 **COST RECOVERY**

2 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **CAUSE FOR DISCIPLINE**

9 **(September 11, 2015 Criminal Conviction for Insurance Fraud)**

10 15. Respondent has subjected his license to disciplinary action under sections 490 and
11 8649 of the Code in that he was convicted of a crime that is substantially related to the
12 qualifications, functions, and duties of an applicator. The circumstances are as follows:

13 a. On or about September 11, 2015, in a criminal proceeding entitled *People*
14 *of the State of California v. Giezi Merari Beltran*, in Riverside County Superior Court, case
15 number INF1501448, Respondent was convicted on his plea of guilty of violating Penal Code
16 section 550, subdivision (b)(1), presenting a false statement in support of a claim for payment
17 pursuant to an insurance policy, a felony, a count added to the complaint by interlineation. In
18 exchange for a plea agreement, the court dismissed the original count of knowingly presenting a
19 false and fraudulent claim for payment of a loss under a contract of insurance (Pen. Code, §
20 550(a)(1)).

21 b. As a result of the conviction, Respondent was committed to the custody of
22 the sheriff for 90 days, with pre-custody credit for four days. Respondent was granted formal
23 probation for three years, ordered to pay fines, fees, and restitution to the victim, and comply with
24 felony probation terms.

25 c. The circumstances that led to the conviction are that the California
26 Department of Insurance received a Suspected Fraudulent Claim from an insurance company that
27 resulted in their investigation and prosecution of a large-scale insurance fraud conspiracy
28 involving two Riverside County auto collision repair businesses, with multiple claims filed by the

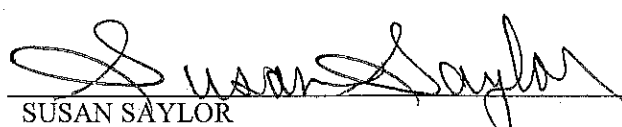
1 body shop owners, their spouses, relatives, and friends. Respondent was recruited into the
2 conspiracy by a coworker at a pest control company. On or about December 6, 2012, Respondent
3 knowingly submitted a false and fraudulent claim to Progressive Insurance alleging damage to a
4 1998 Mercedes.

5 **PRAYER**

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
7 and that following the hearing, the Structural Pest Control Board issue a decision:

- 8 1. Revoking or suspending Applicator License Number RA 51927, issued to Giezi M.
9 Beltran ;
10 2. Ordering Giezi M. Beltran to pay the Structural Pest Control Board the reasonable
11 costs of the investigation and enforcement of this case, pursuant to Business and Professions
12 Code section 125.3;
13 3. Taking such other and further action as deemed necessary and proper.

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15 DATED: 8/8/16


16 SUSAN SAYLOR
17 Registrar/Executive Officer
18 Structural Pest Control Board
19 Department of Consumer Affairs
20 State of California
21 Complainant

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